

**METROPOLITAN NASHVILLE-DAVIDSON COUNTY
TRANSPORTATION LICENSING COMMISSION**

Minutes of

April 29, 2008

The Metropolitan Nashville-Davidson County Transportation Licensing Commission (the "Commission") met in regular session on this date at the Metropolitan Courthouse. The Commissioners present were Vice Chair Duane McGray and Commissioners Jennifer Brundige, Tom Turner, James Utley, and Ed Whitmore (5). Also attending were Metro Legal advisor Jon Michael; Commission staff members Walter Lawhorn and Lisa Steelman; and Brian McQuiston, Director-Executive Secretary to the Commission.

Vice Chair Duane McGray called the meeting to order and led the Pledge of Allegiance.

APPLICATION FOR WRECKER DRIVER PERMIT: ROBERT FLOWERS

Phillip Davidson, attorney representing Mr. Flowers, appeared before the Commission. Director McQuiston reported that Mr. Flowers had reapplied for a wrecker driver permit, after his application had been disapproved by the Commission at the February 26 meeting. He provided copies of the application. The director noted that the new application indicated a request for a permit to drive for Able Towing and Accelerated Towing, but that Accelerated Towing was not licensed to operate in Davidson County. He added that the staff would recommend approval if the application could be restricted to Able Towing. Mr. Davidson stated that his client would agree to that condition.

Referring to a citation Mr. Flowers had received in January 2008, **Commissioner Tom Turner** asked why Mr. Flowers had been operating a wrecker without a permit. Mr. Davidson stated that this had been a misunderstanding by his client, but that he had stopped driving since Mr. Davidson had been representing him. **Commissioner Turner** asked for clarification; Mr. Davidson stated that the misunderstanding had been between Mr. Flowers and his father Mark Wayman, the owner of Able Towing. Director McQuiston reviewed events concerning Mr. Flowers' permit from the expiration of his last permit on December 1, 2007.

Vice Chair Duane McGray asked about Accelerated Towing. Director McQuiston stated that the company was also owned by Mr. Wayman, but that the companies' vehicles and drivers were not interchangeable. **Commissioner James Utley** stated that it was important that Mr. Flowers should hear this, and asked Mr. Davidson why his client was not present. He also asked if Mr. Flowers had not stated in his previous appearance before the Commission that he thought it was acceptable for him to operate an Accelerated Towing vehicle without a permit. Director McQuiston stated that the remark had come from Mr. Wayman.

Mr. Flowers arrived with Mr. Wayman, and appeared before the Commission. Mr. Davidson updated his client.

Commissioner Jennifer Brundige asked Mr. Flowers if he understood that he must have a valid wrecker driver permit to operate a wrecker in Davidson County; and, if his permit expires, that he may not drive until he receives a new permit. Mr. Flowers responded that he understood. **Commissioner Brundige** asked if he also understood that a restricted permit issued to operate a wrecker for Able Towing would not allow him to also operate a wrecker

for Accelerated Towing or another company. Mr. Flowers stated that he understood. **Commissioner Utley** asked Mr. Flowers if he was under probation for anything; Mr. Flowers responded that he was not. **Commissioner Ed Whitmore** asked about the 2007 citation for towing without proper authorization. Director McQuiston noted that this citation had been issued by Inspector Bowling, and asked if that citation had been disposed. Mr. Davidson stated that he believed it had been dropped by Inspector Bowling. Director McQuiston stated that Inspector Bowling had not dropped the case; he asked if the court had dismissed the charge. Mr. Davidson stated that it had been dismissed.

Vice Chair McGray read the Notice of Appeal statement, advising of the right to appeal decisions of the Transportation Licensing Commission.

Commissioner Utley moved to approve a wrecker driver permit for Mr. Flowers, restricted to Able Towing. **Commissioner Whitmore** seconded, and the motion was approved (4-0).

APPROVAL OF MINUTES

The minutes of the March 25, 2008 meeting were approved.

PUBLIC HEARING: REVISIONS TO WRECKER RULES

Director McQuiston stated that the Commission had not conducted a review of the Rules of the Commission for several years; he noted that some Rules had become obsolete or superseded by changes to the ordinance or police general orders, and that a few others needed to be expanded or further clarified. He noted that the proposed changes to the Rules had been mailed to all licensed wrecker companies.

Director McQuiston recommended and explained the following proposed changes to the Wrecker Rules:

RULE 3. APPLICATION FOR WRECKER DRIVER PERMITS LICENSE/RENEWALS:

EACH APPLICATION FOR A WRECKER DRIVER PERMIT ~~Applications for the renewal of wrecker driver permits may be submitted to the Transportation Licensing Commission by mail. Each application shall be signed by the applicant and shall be duly attested by a notary public.~~ **THE APPLICANT** ~~Each new driver (or drivers who have not had a permit within the three previous years)~~ must appear in person with a **VALID TENNESSEE DRIVERS LICENSE** ~~photo identification~~ to apply for a license. All appropriate fees must be paid in advance. **APPLICANTS MUST COMPLETE A CRIMINAL BACKGROUND CHECK. APPLICANTS WITH A RECORD OF CONVICTIONS WILL BE REQUIRED TO APPEAR FOR A COMMISSION HEARING TO DETERMINE IF A PERMIT WILL BE APPROVED. A MANAGEMENT REPRESENTATIVE OF THE EMPLOYING WRECKER COMPANY MUST ALSO APPEAR AT THE HEARING.**

RULE 5. EQUIPMENT REQUIRED TO BE ON WRECKERS EMERGENCY WRECKER SERVICE WRECKERS, AND GENERAL WRECKERS RESPONDING TO ROADSIDE EMERGENCIES:

- (a) Equipment for all wrecker units in service:
 - (1) Shovel or scoop,
 - (2) Broom,

- (3) Firefighter's ax,
- (4) Crowbar,
- (5) Fire extinguisher - must be a minimum of 20 lbs,
- (6) Absorbent material (i.e. OIL-DRY) - minimum of 10 lbs.
- (b) Equipment for wreckers used for towing:
Rubber type belt, tow sling, or steel tow bars.
- (c) The wrecker company shall inquire at the time of notification of the wreck if a rollback is required and necessary to move the wreckage from the street.

RULE 7. POLICE DISPATCHER CALLING WRECKER COMPANIES:

The dispatcher shall not attempt to call any wrecker company through the tow-in lot. The dispatcher shall first call the applicable zone wrecker company. If there is no answer, the dispatcher shall then call the next nearest zone wrecker company. The dispatcher shall report ~~by mail~~ to the Transportation Licensing Commission, all companies who do not answer their phones, or who do not respond promptly.

RULE 9. REGULATION OF EMERGENCY WRECKER SERVICE APPLYING TO ZONES

- (a) In the case of an accident involving one or more motor vehicles, where services of a wrecker are needed, the police dispatcher shall contact the zone wrecker by telephone. If the dispatcher cannot reach the zone wrecker, he may contact another wrecker service. The police dispatcher shall make the final decision as to which wrecker service to contact if he/she is unable to reach the zone wrecker.
- (b) Should any licensee of a wrecker company, or his/her employee, who receives a call for an accident from the police dispatcher and the accident is not in his assigned zone, the licensee or employee must immediately notify the police dispatcher of the error. Any wrecker company licensee or employee of a wrecker company who intentionally violates the aforesaid rule by operating in an unauthorized zone will be subject to disciplinary action by the Transportation Licensing Commission. ~~The disciplinary action may range from a warning and a recommendation to make restitution to the zone operator for the amount of money lost, to suspension of the license for seven (7) days on the first offense, a suspension of thirty (30) days on the second offense and revocation of the license on the third offense.~~

RULE 10. EMERGENCY PRECAUTIONS

When any wrecker is engaged in towing a vehicle, whether it be during daylight hours or nighttime hours, the wrecker must be displaying the emergency flashing lights, as well as the lights on the top of the wrecker cab. **DRIVERS OF EMERGENCY WRECKER SERVICES WILL WEAR REFLECTIVE CLOTHING WHEN CLEARING VEHICLES.**

RULE 13. CLARIFICATION FOR TOWING HOURLY RATES, CHARGES

- ~~(a) Any charge after the first hour for labor to be compensated under Section 6.80.550 will be prorated to the next quarter hour.~~

- ~~Any~~ Any labor time must be shown on the VR report, with the time indicated and verified by the police officer at the scene of the accident.

RULE 14. CLARIFICATION OF THE SPECIAL PREPARATION FOR TOWING CIRCUMSTANCES:

Per Section 6.80.550(G) the operator of any wrecker service vehicle, summoned to tow away any vehicle, whether on a public street, public property, or private property, shall not tow the vehicle away if the operator of the vehicle returns prior to the wrecker vehicle having left the location to which summoned. ~~If the wrecker has already attached the vehicle to the wrecker, the current rate schedule requires a \$25.00 Fee to drop vehicle before departing.~~

RULE 20 (New). NOTIFICATIONS CONCERNING EMPLOYEE MISCONDUCT

EMERGENCY WRECKER COMPANIES WILL NOTIFY THE COMMISSION OFFICE IF AN EMPLOYEE IS ARRESTED, CITED BY THE POLICE, FIRED FOR CAUSE OR ANY OTHER SITUATION THAT COULD CAUSE CONCERN FOR PUBLIC SAFETY.

RULE 20 (Old). MONTHLY REPORTS REQUIRED

~~Every Metro wrecker assignment shall be reported to the Commission on a monthly basis on a form furnished by the Commission which will (at minimum) detail the owner, date, time, location and type of vehicle.~~

RULE 21. PERSONAL PROPERTY

Personal property contained in towed vehicles must be released to an owner upon request, unless **THE** investigating officer **PLACES A HOLD ON THE VEHICLE OR** ~~orders~~ otherwise **RESTRICTS SUCH RELEASE**. Reasonable proof of ownership must be required prior to the release of property.

RULE 24. NONCONSENT TOWING FROM PRIVATE PROPERTY

Prior to towing a vehicle (or personal property) from private property without the vehicle (or personal property) owner's consent, the towing company must have express written authorization for towing of that vehicle (or personal property) from the owner of the private property or designated agent. When an individual is designated by a private property owner to act as an agent to authorize towing from the property, such designation must be in writing and signed by the private property owner. There shall be some relationship between the private property owner and the designated agent, and there may be no relationship between the designated agent and the towing company. **NO EMPLOYEE OF A WRECKER COMPANY OR DESIGNEE OF A WRECKER COMPANY MAY PATROL OR OTHERWISE PARTICIPATE IN THE DECISION MAKING PROCESS ABOUT WHICH VEHICLES ARE TO BE TOWED: THIS INCLUDES PLACING ANY STICKER, SIGNAL OR ANY OTHER FORM OF DESIGNATION ON ANY VEHICLE TO BE TOWED.** Contracts or written agreements between a towing company and private property owners for nonconsent towing must

be retained by the towing company, and must include the property owner's signature and the signature(s) of any agent(s) designated by the private property owner. The towing company must make these documents available for inspection by the commission or any designated representative at any time. Maximum allowable rates for nonconsent towing from private property will be as specified in Section 6.80.550(H) of the Metropolitan Code of Laws.

Vice Chair Duane McGray asked Legal Advisor Jon Michael about the proposed Rule 20, and whether it could be considered too broad or prejudicial. Director McQuiston clarified that notification by a company would not necessitate Commission action. Mr. Michael stated that the new rule was justified by the Commission's regulating role, and that the language emphasized its public safety purpose. **Vice Chair McGray** asked for further clarification on Rule 21; Director McQuiston explained that the change was requested by the police, in order to prevent potential problems with evidence in the impounded vehicles.

Vice Chair McGray invited public comment.

Randy Bailey, representing the Davidson County Zone Towing Association, asked about Rule 12. Specifically, he noted that in some cases emergency wrecker companies responding to major accidents had called general wrecker companies to provide Class C wrecker support. He expressed concern that the general wrecker companies may not have the appropriate equipment or personnel to work on these accidents. He requested that Rule 12 be changed to state that only emergency wrecker companies could work on accidents requiring C Class wreckers. Following discussion, Director McQuiston agreed to follow up on the issue.

Mr. Bailey asked that Rule 14 be modified, to allow companies to collect the drop fee "when the towing/hook-up procedure has commenced." He explained that his insurance company had advised him that he would be liable for any potential damage to the towed car as soon as he touched the car, and reasoned that the drop fee should be collectable at the same time.

Vice Chair McGray read Section 6.80.550(G) of the Metropolitan Code, and noted that the ordinance already established the specific requirement for the vehicle to be completely connected. Mr. Bailey recommended that the Commission consider a change to the ordinance, in order to protect the wrecker companies' liability interests. **Commissioner Jennifer Brundige** responded that the Commission was only considering Rules at this meeting, and that a proposal for an ordinance change would have to be considered in a separate public hearing.

Mr. Bailey addressed Rule 16; which states that an emergency wrecker service that responds to a zone call, but upon arrival at the scene discovers that the location is outside their zone, must take the vehicle to the storage lot of the appropriate zone company. He asked how the towing wrecker service was to be paid, when the problem was not the company's fault. Director McQuiston expressed regret that such situations do occur, but noted that the emergency wrecker services had been able to cooperate with one another on these matters, and that there had been a general understanding that the towing company would take the vehicle to their own storage lot and collect the appropriate fees; because this issue would likely affect all companies, and over time there would be little significant financial effect on any single company. Larry Boggs, general manager of West Nashville Wrecker Service, agreed that this was the standard practice. He added that the standard practice was also to ensure that the recovery was not delayed because of the location error; emergency wreckers would not refuse to handle the emergency dispatch call if they discovered at the scene that an incorrect location had been given. **Commissioner Ed Whitmore** asked if it would be

difficult for vehicle owners to locate their cars if they were taken to the towing company's storage lot. Mr. Bailey responded that it should not be a problem, because the accident report would specify where the car was taken. Director McQuiston stated that the wrecker ordinance required that these tows should be reported to the Metro Impound Lot.

Mr. Bailey requested that the requirement under new Rule 20, for emergency wrecker companies to notify the Commission about employee misconduct, be extended to include all licensed wrecker companies. Director McQuiston expressed support for this change.

Mr. Bailey expressed concern about communications with the police department and the emergency communications center. He explained that after receiving a dispatch call the only way to contact the police for clarification on accident locations or other specific problems was to call 862-8600, the public line for all calls to the police department. This resulted in long delays, which could be a public safety problem. Mr. Bailey asked for the Commission's help, to identify another number to use as a direct line to the ECC or the police. Director McQuiston stated that he had another number, and would provide it to the companies. Mr. Bailey added that there was still a problem with some police officers refusing to provide tow authorizations.

Mr. Bailey stated that his previous comments had been as a representative of the Davidson County Zone Towing Association; but that he also wanted to address a concern on behalf of Bailey's Wrecker Service, related to Rule 24. He provided Commissioners with copies of letters of support from apartment complex managers, and pointed out the problems property owners experienced in getting illegally parked vehicles towed. He stated that performing this towing service legally was not difficult. He noted that some towing companies had been disciplined by the Commission for violations, but expressed concern that the Rule might be penalizing everyone for the problems created by a few companies. He described the process his company used to identify and tow vehicles from apartment complexes, which included: an initial visit, to identify and place a sticker on vehicles that appeared to be illegally parked or abandoned and to provide a list of these vehicles to the complex manager; and a return trip, when called, to obtain a signature on a completed tow slip and to tow the vehicle. He asked that the Commission reconsider the restrictions in the rule, or that it treat apartment complexes differently from other private property. **Vice Chair McGray** stated that most apartment complexes had a security officer or private security company; and that patrolling of the parking areas for illegally parked vehicles should be their job, not a towing company's responsibility. He added that, by taking on the security role, a wrecker company could be exposing itself to additional problems. Director McQuiston reminded Mr. Bailey of his own argument, concerning drop fees, that if he touched a vehicle he would be liable for that vehicle; and stated that placing a sticker or tag on a vehicle might have the same risk. The director agreed that private property owners had legitimate problems with abandoned or illegally parked vehicles on their property; but that the Tennessee Code related to private property towing was clearly written to protect the interests of the vehicle owners ahead of the interests of the private property owner or of the towing company. He stated that the Rules were established to support enforcement of these laws.

There was no other public comment.

Commissioner Tom Turner moved to approve the proposed changes, with the amendment of the new Rule 20 to extend the requirement to all licensed wrecker companies. **Commissioner Ed Whitmore** seconded, and the motion was approved (4-0).

TAXI DRIVER DISCIPLINARY HEARINGS:

Glenn Cravens: Mr. Cravens appeared before the Commission, and denied the allegations. The complainant failed to appear; and the complaint was dismissed.

Mouhammaed Fawzi: Mr. Fawzi did not appear. Director McQuiston reported that Mr. Fawzi had renewed his taxi permit in September 2007, indicating that he was driving for Allied Cab. Nader Hosseinzadeh, a management employee at Allied Cab, appeared before the Commission. He stated that the company had terminated Mr. Fawzi in July 2007, but that Mr. Fawzi had not returned the company's meter, so the company filed a report with the police. He stated that he had observed Mr. Fawzi driving the vehicle on April 9, 2008 – still lettered as a taxi, with a commercial license plate, and with the meter still in the vehicle. Mr. Hosseinzadeh added that, after filing a complaint with the Commission staff, Mr. Fawzi had returned the company's equipment. Director McQuiston stated that he had contacted Mr. Fawzi, and that Mr. Fawzi had reported that he was no longer operating a taxicab. The director expressed concern that Mr. Fawzi still had a taxi driver permit. **Commissioner Ed Whitmore** asked if the commercial plate number was the same as the vehicle previously operated by Mr. Fawzi as an Allied Cab. Josh Toney, manager at Allied, confirmed that it was the same. **Vice Chair Duane McGray** stated that, if Mr. Fawzi was not operating a taxicab, then he did not need a permit for Allied Cab. **Commissioner Jennifer Brundige** moved to revoke Mr. Fawzi's permit. **Commissioner Tom Turner** seconded, and the motion was approved (4-0).

APPLICATION FOR WRECKER DRIVER PERMIT: WILLIAM ALLEN

Mr. Allen did not appear. **Commissioner Jennifer Brundige** moved to disapprove Mr. Allen's application. **Commissioner Ed Whitmore** seconded, and the motion was approved (4-0).

OTHER BUSINESS

Vice Chair Duane McGray reported that Mary Griffin, attorney with the Tennessee Department of Commerce and Insurance, had been appointed to the Commission.

Vice Chair McGray reported that **Commissioner Ray Dayal** would be departing the Commission, and expressed appreciation for his service to the Commission and the community.

Legal Advisor Michael provided an update on the bill to amend rates in the wrecker ordinance.

There was no further business, and the meeting was adjourned.

ATTEST:

APPROVED:

Brian E. McQuiston
Director-Executive Secretary

Helen S. Rogers
Chair